

Message Text

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SUBJECT: HUMAN RIGHTS IN HUNGARY: LAWS, REGULATIONS AND GOVERNMENT
PRACTICES

REF: BUDAPEST 1832

1. IN CONJUNCTION WITH THE ASSESSMENT BEING CARRIED OUT
PRESENTLY REGARDING THE PRACTICES OF OBSERVING OR VIOLATING
HUMAN RIGHTS IN VARIOUS COUNTRIES, EMBASSY DECIDED TO
MAKE A SURVEY OF SOME CURRENT HUNGARIAN LAWS AND PROCEDURES
IN THIS FIELD.

2. STUDY OF THE CONSTITUTION, LAWS OR REGULATIONS BY
THEMSELVES CAN BE QUITE MISLEADING IN MANY COUNTRIES, SINCE
EVEN THOSE COUNTRIES CUILTY OF THE GROSSEST HUMAN RIGHTS
VIOLATIONS OFTEN HAVE FINE SOUNDING LAWS ON THE BOOKS
WHICH IN THEORY PROHIBIT SUCH PRACTICES.

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3. IN HUNGARY AT THIS TIME, HOWEVER, PRACTICE DOES NOT
SEEM TO BE TOO DISTANT FROM THEORY. TO OUR KNOWLEDGE,
THERE ARE NO POLITICAL PRISONERS HERE; THERE IS NO SIGNIFI-
CANT DISSIDENT MOVEMENT; EMIGRATION, WHILE DIFFICULT,
IS POSSIBLE; RELIGION CAN BE PRACTICED TO A CONSIDERABLE
EXTENT WITHOUT INTERFERENCE BY THE STATE; PEOPLE FALLING

OUT OF POSITIONS OF POLITICAL POWER DO NOT BECOME NON-PERONS; PSYCHIATRIC INSTITUTIONS ARE USED ONLY FOR THE TREATMENT OF THE MENTALLY ILL; THERE IS NO TORTURE PRACTICED IN PRISONS AND ILLEGAL SEARCH AND SEIZURE IS NOT PRACTICED BY THE POLICE.

4. BEFORE 1956 THE SITUATION WAS QUITE THE OPPOSITE. PRESENT PRACTICE IS BASED ON LAWS OR CONSTITUTIONAL AMENDMENTS PASSED SINCE THAT TIME, WITH THE INTENT OF CORRECTING AND PREVENTING PAST ABUSES. CONFESSIONS, FOR EXAMPLE, EVEN WHEN FREELY OFFERED ARE NOT BY THEMSELVES ADMISSIBLE EVIDENCE AT A TRIAL. CONVICTION FOR A CRIME CAN OCCUR ONLY BASED ON CONCRETE EVIDENCE OR PROOF DEMONSTRATED BY THE PROSECUTOR. THIS EXPLAINS WHY TORTURE IS NOT USED: CONFESSIONS ARE ONLY A PIECE OF PAPER WITHOUT LEGAL VALUE. IN OTHER WORDS, THERE IS NO PLEA OF GUILTY AS SUCH, UNLESS THE ACCUSED ACTUALLY PROVIDES PHYSICAL EVIDENCE WHICH CAN BE USED TO CONVICT HIM.

5. UPON ARREST A CITIZEN MUST BE INFORMED IN WRITING BY THE POLICE OF WHAT HE IS BEING SUSPECTED; HE MUST BE ADVISED OF HIS RIGHT TO HIRE A LAWYER OF HIS CHOICE AND OF HIS RIGHT TO GATHER EVIDENCE FOR HIS DEFENCE. POLICE MUST ALSO ADVISE IMMEDIATELY A RELATIVE OR FRIEND DESIGNATED BY THE PERSON INVOLVED REGARDING THE ARREST. PERSON CAN BE HELD AT A POLICE STATION FOR A MAXIMUM OF 72 HOURS BEFORE CHARGES MUST BE FILED. EXCEPT FOR SUSPECTED MURDER OR ARMED ROBBERY WITH INTENT TO KILL, PERSONS MUST BE FREED ON BAIL DURING THE PRE-TRIAL PERIOD. LIMITED OFFICIAL USE

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IN CASES OF SUSPICION OF "SERIOUS CRIMES" A PERSON CAN BE HELD IN JAIL FOR 30 DAYS BEFORE TRIAL, RENEWABLE TWICE FOR A MAXIMUM OF THREE MONTHS.

6. AN ACCUSED CANNOT BE FORCED TO TESTIFY AGAINST HIMSELF, NOR CAN ANY OF HIS RELATIVES. ARRESTED PERSONS HAVE VISITATION RIGHTS FROM THE MOMENT OF ARREST. ALL THE ABOVE LAWS REGARDING ARREST, RIGHT OT BE INFORMED, BAIL, TRIAL, ETC... ARE PUBLIC KNOWLEDGE. IF RELATIVES OF ACCUSED BELIEVE THAT ANY LEGAL PROCEDURES WERE NOT FOLLOWED, A COMPLAINT CAN BE FILED WHICH MUST BE ANSWERED IN WRITING WITHIN 30 DAYS BY THE PUBLIC PROSECUTION.

7. GOVERNMENT AGENCIES INCLUDING THE POLICE CAN BE AND ARE IN FACT SUED BY PRIVATE CITIZENS. ONE AREA OF SUITS IS POLICE BRUTALITY. ACCORDING TO POLICE REGULATIONS ANY TIME A RUBBER TRUNCHEON IS USED FOR ANY REASON, A WRITTEN REPORT MUST BE FILED. IN THIS REGARD, ONE EMBASSY OFFICER HAD DIRECT PERSONAL EXPERIENCE RELATED

TO AN INCIDENT INVOLVING A FAMILY MEMBER WHO WAS ATTACKED ON THE STREET. THE ATTACKER WAS CAUGHT BY POLICE AND IN THE PROCESS OF RESISTING ARREST HIT ONE OF THE POLICEMEN. THE POLICEMAN STRUCK BACK AND FRACTURED THE ATTACKER'S SKULL. AFTER RECOVERING, AND ARMED WITH X-RAYS AS EVIDENCE, THE ATTACKER SUED THE POLICE FOR BRUTALITY, AND WON.

8. IN ORDER TO SEARCH A PERSON'S APARTMENT, POLICE MUST HAVE AND PRESENT A COURT WARRANT. THREE PERSONS WHO HAVE HAD THEIR APARTMENTS SEARCHED DURING THE PAST FEW YEARS HAVE BEEN THE ONES TO PROVIDE US THIS INFORMATION. A CIVILIAN OUTSIDE WITNESS MUST BE PRESENT AT ANY SEARCH, AND A WRITTEN INVENTORY MUST BE PREPARED OF OBJECTS FOUND AND TAKEN AWAY FROM THE PREMISES. SUCH NICETIES WERE NOT OBSERVED IN THE OLD DAYS, BUT THEY ARE NOW.

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9. TWO YEARS AGO, SOCIOLOGISTS GYOR KNORAD AND IVAN SZELANYI WERE IN FACT ARRESTED AND ACCUSED OF WORKING ON A RESEARCH PROJECT WHICH WAS ALLEGEDLY "ANTI-STATE". A SEARCH WITH WARRANT OF THEIR APARTMENT YIELDED A COPY OF THEIR RESEARCH PAPER, WHICH WAS SEIZED AS EVIDENCE. ACCORDING TO HUNGARIAN LAW, HOWEVER, "ANTI-STATE ACTIVITY" INCLUDES "AGITATION", THAT IS SPREAD OF IDEAS TO OTHERS. WHEN A NUMBER OF FURTHER SEARCHES FAILED TO YIELD OTHER COPIES OF THE PAPER, THE CHARGES WERE DROPPED FOR LACK OF EVIDENCE. NEEDLESS TO SAY, IT WAS PRIMARILY A POLITICAL DECISION NOT TO PRESS CHARGES; NEVERTHELESS THE GAME WAS PLAYED OUT IN A LEGAL MANNER.

10. THE FACT THAT THERE ARE NO MAJOR HUMAN RIGHTS VIOLATIONS IN HUNGARY TODAY IS DUE PRIMARILY TO A PARTY POLICY WHICH AVOIDS THE CREATION OF A DISSIDENT MOVEMENT BY AVOIDING HEAVY-HANDED TACTICS OR REPRESSION. MOST RECENTLY THIS WAS HIGHLY VISIBLE IN THE CASE OF THE HUNGARIAN SIGNERS OF THE LETTER OF SUPPORT FOR CHARTER 77, AGAINST WHOM NO STEPS WHATEVER WERE TAKEN. THE PARTY POLICY, HOWEVER, IS HELPED ALONG BY THE FACT THAT IT CAN BASE ITSELF ON A BODY OF LAW WHICH PROTECTS MORE INDIVIDUAL RIGHTS THAN IS USUALLY THE CASE IN SOCIALIST COUNTRIES. UNDOUBTEDLY A PRIME MOVER IN THE DIRECTION OF LEGALITY IS AND HAS BEEN JANOS KADAR HIMSELF WHO, TOGETHER WITH OTHER MEMBERS OF THE PARTY HIERARCHY WAS IMPRISONED AND BADLY TREATED DURING THE RAKOSI ERA. THEIR REVULSION TO THE TREATMENT THEY RECEIVED PROBABLY GOES A LONG WAY TOWARDS EXPLAINING THE EMPHASIS IN HUNGARY TODAY ON LEGAL CONTROLS OF POLICE ACTIVITY. INCIDENTALLY,

MAJOR

FARKAS, FORMER AVO OFFICER AND THE BRUTALIZER OF KADAR, IS ALIVE AND
LIVING IN BUDAPEST.

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